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8 UNITED STATES DISTRICT COURT
9 CENTRAL DISTRICT OF CALIFORNIA
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11 OMAR KING,

12 Plaintiff,

13 v.

14 L. KINGSLEY, *et al.*,

15 Defendants.
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Case No. 2:22-cv-04484-FLA (BFM)

**ORDER ACCEPTING INTERIM
REPORT AND
RECOMMENDATION OF UNITED
STATES MAGISTRATE JUDGE
[DKT. 98]**

1 Pursuant to 28 U.S.C. § 636, the court has reviewed Defendant L. Kingsley's
2 ("Defendant") Motion for Terminating Sanctions (Dkt. 85, "Motion"), the records and
3 files herein, the Magistrate Judge's Interim Report and Recommendation (Dkt. 98,
4 "Interim Report"), and Defendant's Objections to the Interim Report and
5 Recommendation (Dkt. 101, "Objections"). The court has engaged in a *de novo*
6 review of those portions of the Interim Report to which objections have been made.

7 The Interim Report recommends the denial of Defendant's Motion, which seeks
8 terminating sanctions based on Plaintiff's failure to respond timely to certain
9 discovery requests. Dkt. 98 ("R. & R."). Defendant's objections to the Interim
10 Report do not merit any change to the Interim Report's findings or recommendations.
11 Defendant objects to the Interim Report's characterization of the denied discovery
12 evidence as marginal. Dkt. 101 ("Obj.") at 2-3. The evidence is Plaintiff's work
13 schedule on the day of the alleged incident of excessive force, which allegedly
14 included Defendant pepper spraying Plaintiff. R. & R. at 7. Defendant argues that, if
15 "Plaintiff was not scheduled to work that day, that undercuts Plaintiff's claims of
16 malicious intent on the part of Defendant. And calls into question Plaintiff's intent in
17 approaching Defendant that day. Intent is central in this case, not marginal." Obj. at
18 3. This objection does not persuasively undercut the Interim Report's finding that,
19 even if Plaintiff "was wrong about what his schedule was," what matters is whether
20 Defendant "was justified in her use of force." R. & R. at 7. The court agrees with the
21 Interim Report that the work schedule is not so critical that Plaintiff's failure to
22 provide it warrants the severe sanction of termination of the action. *Id.*

23 Defendant objects that the sanction of exclusion is not sufficient. Obj. at 3-5.
24 The court disagrees and concurs with the Interim Report's finding that sanctions that
25 are less drastic than a case-dispositive sanction remain available should Plaintiff
26 produce the requested document later. R. & R. at 7. As the Interim Report correctly
27 points out, Plaintiff can be precluded from using the work schedule to corroborate his
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1 account. *Id.* The court agrees with the Interim Report that sanctions less drastic than
2 termination of the action remain available and could be warranted if appropriate.

3 The court ACCEPTS the recommendations of the Magistrate Judge and
4 ORDERS as follows:

- 5 1. The Interim Report is ACCEPTED;
- 6 2. Defendant's Motion is DENIED; and
- 7 3. The Clerk of the Court shall SERVE this Order on all counsel or parties
8 of record.

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10 IT IS SO ORDERED.

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12 Dated: July 29, 2025


13 FERNANDO L. AENLLE-ROCHA
14 United States District Judge
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